

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-01-16
Baltimore, Maryland 21244-1850



Division of Integrated Health Systems, Family and Children's Health Programs Group, CMSO

Sue Kelly
Associate Regional Administrator
Division of Medicaid and State Operations
CMS Regional Office
26 Federal Plaza, Room 381 1
New York, New York 10278-0063

JUL 30 2002

Dear Ms. Kelly:

On June 10, 2002, the State of New York submitted a request to renew its section 915(b)(4) non-emergency transportation waiver. All waiver requests under section 1915(b) of the Act are subject to requirements that the State document the cost-effectiveness of the project, its effect on recipient access to services, and its projected impact (42 CFR 431.55(b)(2)). After extensive analysis of the renewal material submitted by the State, we believe that additional information is required before we can render a decision on the State's request. The State's renewal application lacks sufficient cost effectiveness information to determine whether the waiver has been cost effective in the preceding waiver period or whether it is projected to be cost effective in the upcoming waiver period. There are also numerous programmatic questions about this waiver that need to be addressed.

Under section 1915(f)(2) of the Act, a waiver request shall be deemed granted unless, within 90 days after the date of its submission, the request is denied or the State is informed in writing of any additional information which is needed in order to make a final determination with respect to the request. The attached set of questions constitute such a formal additional information request. Please send us a signed copy of the Regional Office's letter to the State which conveys these questions and formally stops the first 90-day review period.

Given the three temporary extensions that have already been granted, we must require a full and complete response to our questions by September 2, 2002 in order to properly review the waiver renewal request. We would be glad to assist the State to respond to this request and complete their waiver submission. If you have any questions regarding this matter, please contact Julie Jones at (410) 786-3039.

Sincerely,

Michael Fiore
Director

cc: Michael Melendez
Gloria Smiddy
Julie Jones

Non-emergency Transportation Waiver Renewal
1915(b)(4)
Comments

Renewal of the New York Non-Emergency Transportation Program

1. Page 8. J. Distance/Travel Times: Is there a limit on the number of pickups per ride? Is there a standard for the amount of time the driver must wait for a rider?
 2. Page 9. K. Independent Assessment: Since there are new districts which will be included in this waiver, the State should continue to conduct an independent assessment of the waiver effectiveness as it has done in previous years.
 3. Page 10. Description of Current Waiver Initiatives, #4. This section discusses Allegany County and its 1999 submission and being pended while CMS and SDOH discuss the future of the waiver program. CMS has no records of approving this county to participate in the waiver program. We do have correspondence of requests for additional information (RAI) advising the State that the clock will restart upon receipt of complete responses to the RAI. We have no record of this being completed. We have copies of correspondence to the State and to CMS, from Transportation providers covering this county, that imply that the waiver is operational in Allegany County. These letters also allege that possible double billing for transportation services may have occurred.
 - a. Has the State performed an audit to see if any double billing occurred in this county? What is the status of the waiver in this county?
 - b. Has the county in fact implemented the waiver? If yes, under what approval authority is the county restricting freedom of choice of provider?
 - c. What correspondence has been provided to the county granting approval?
 - d. Was a request for proposal or some other bidding process undertaken to select the transportation provider being used in the county?
 - e. What is the State doing to look into and resolve the issues raised by the transportation providers serving Allegany county?
 4. Page 10. 2. Regarding two new initiatives, Orange and Steuben, when will these applications from the districts to the State be submitted to CMS for review? Is the information in the renewal request to be considered the official request or will some other waiver request for these two counties be submitted for review? Information from these applications is needed for CMS to review the State's request to implement programs in these Districts.
 5. Page 11. The middle paragraph states that "When the recipient will experience a financial hardship due to the level of incurred transportation expenses, the Department
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will arrange and pay for transportation services in order to eliminate this barrier and to make accessible necessary medical care and services.” How does the Department define “financial hardship?” Please describe the process that is undertaken to make this determination.

6. Page 11. #1. Notification Process: You state that the written explanation of the new system will be mailed to all users of transportation. How do you determine who is a user of transportation? Why isn’t a notification sent to all potentially eligible Medicaid recipients? Are notifications posted in areas where potential eligibles receive services, such as doctor offices, etc? Do the procedures to be followed to receive services vary by district? Please describe these procedures.

7. Please describe the prior authorization process. If this varies by district, please provide details on the various methods used in each district.

8. Page 12. Please provide an example of an initial notification letter from a district.

9. Page 15. b. Please provide the assurance that a transportation provider cannot refuse to provide services to a waiver participant.

10. Page 18. 1. Service Access Areas, last paragraph. How do you define when it is necessary to counsel recipients on the effective means of requesting the appropriate mode of transportation services? Is there any initial counseling?

11. Page 18, Section IV. B. Monitoring Access. #2. What is the time frame for the State to visit each district following approval of the renewal? What will the State be examining during these site visits?

12. Page 19. C. Complaints and Grievances. Is there a timeline for resolution of complaints and grievances? How long must a recipient wait for provider resolution before they are allowed to bring their complaint to district staff! What is the timeline for the district to resolve complaints and grievances? How are recipients notified/educated about their right to a fair hearing and other steps in the grievance process?

Cost Effectiveness

13. Please revise your cost effectiveness tables located in Appendix F for each District and provide, on a PMPM (*per capita*) basis, as well as in the aggregate, the following information:

- A. Actual expenditures for the previous period compared to without waiver estimates.
- B. The estimated with waiver expenditures for the renewal period compared to without waiver estimates.

Please revise the tables to show total savings only for FY 2003 and FY 2004, the actual years for the two year renewal period.

14. In place of the current savings table on page 24, please summarize this information into a table, similar to the one attached, which includes information for all Districts as well as savings over the two year waiver period.

15. Please provide information/justification of the trend increases that you are requesting for your “without waiver” baseline for each of the districts.

16. It appears that each district pays a lump sum to each county to manage non-emergency transportation (NET) services, and then the district arranges/pays for each NET service. Is the lump sum paid out on a per capita basis or is it an aggregate amount? How is this payment amount determined? Is it a monthly or yearly payment? Is it determined prospectively? If it is an aggregate amount, how does the State reconcile the payment to actual expenditures (i.e. actual services provided)? If this arrangement varies by county, please provide a table which indicates the payment method in each district.

17. If the district is paid a lump sum, but only spends a portion of the amount, what happens with the rest of the funds? Do the districts keep the excess?

18. Federal procurement rules state that, to the maximum extent practical, contracts should be awarded through an open procurement process. Were the district providers selected through an open procurement process? If not, please explain the appropriateness for setting an exception to the open procurement process.

Appendix C

19. Page 4. 3rd paragraph, 3rd sentence. How do counties determine what is a valid grievance or complaint?

Appendix F

Allegany County

20. Page 4. When was the contract signed with Allegany County Transit (ACT)? Was there an RFP or bidding process to select the contractor?

How many subcontracts did ACT undertake during their term as the contractor and how many subcontracts does ACT currently have? What is the frequency of making arrangements with the subcontractors to provide services? How are payments to subcontractors monitored?

The narrative implies that the initiative is under way. Is the initiative and the waiver the same thing? As written it appears to imply that it is the case. The narrative also states that the selected coordinator, ACT, was to reimburse for non-emergency ambulance services from the approved amount paid to them. The county assumed this would be phased in over time ending in 2002. As written, it appears to state that the county is now reimbursing for non-emergency ambulance during the phase in time period. Are these

services different than those that ACT was already paid to coordinate? What is the status of the discussions with the county to resolve the matter?

While the table, showing anticipated savings for the program shows projected savings in the 3 years of the renewal, the first two years show a deficit. In 2000 and 2001 the county over spent the target expenditures. How has the county demonstrated to the State that they will be able to meet the target expenditures and operate the program at a savings? Even with the projected savings at the end of the 5 years of the program, the county is still operating at a deficit.

Chautaugua County

21. What services are subcontracted out?

Oswego County

22. In the costs analysis section, you state that the amount paid is based on one way trip basis. Does this mean that each trip that would constitute a round trip is paid for each segment of the trip, or is the full trip paid based on a one way basis?